

Attorney Docket No. LUKP:108US
U.S. Patent Application No. 10/791,123
Reply to Office Action of June 9, 2005
Date: September 8, 2005

Remarks

Objections to the Drawings

The Examiner objected to the drawings under 37 CFR § 1.83 (a) as failing to show every feature of the invention specified in the claims. Specifically, the Examiner noted that the drawings fail to show the pressure relief device integrated in a master cylinder or slave cylinder as claimed in Claim 7. Applicants thank the Examiner for noting this omission.

In the Appendix following this Reply, Applicants have added Sheet 3 with new drawing Fig. 5, which depicts the pressure relief device 1a integrated with master cylinder 6a. Sheets 1 and 2 have been amended to drawing sheets 1/3 and 2/3, respectively and are also included in the Appendix. In addition, paragraph 0014 of the specification has been amended to add a brief description of new Fig. 5 and paragraph 0018 has been amended to refer to new Fig. 5 as depicting the pressure relief device integrated with a master cylinder. Support for new Fig. 5 is found in original paragraph 0018. Applicants respectfully request reconsideration and withdrawal of the objection to the drawings.

Amendments to the Specification

The Examiner objected to the disclosure (specification) for informalities. As per the Examiner's suggestions, Applicants have amended the specification as follows:

- Page 3, line 22 – “radical direction” has been amended to read “radial direction” (paragraph 0009);
- Page 4, line 33 – the term “output” has been amended to read “input” (paragraph 0015);
- Page 6, line 24 – the word “and” has been inserted after the term “40” (paragraph 0021).

Applicants thank the Examiner for pointing out these errors.

Applicants have amended paragraph 0014 to add a brief description of new Figure 5 to the BRIEF DESCRIPTION OF THE DRAWINGS. In addition, paragraph 0018 has been

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amended to include a reference to Figure 5 as showing the embodiment in which a pressure relief device is integrated in a master cylinder.

The § 112 Rejections of Claims 1-21

The Examiner rejected Claims 1-21 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement stating that one or more claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that Applicants had possession of the invention at the time the application was filed. Specifically, the Examiner points to page 6, lines 20-21 and page 6, lines 25-26 which appear to give contradictory descriptions of the result of pressure build up in lines 7a and 7b.

Applicants have amended page 6, line 21 of the specification to change the term “reduced” to “increased.” As a result of this amendment, page 6, line 21 now reads, “When master cylinders **6a, 6b** are operated, the connection to the compensating tank is closed, in line **7a, 7b** a pressure is increased and friction clutches **2a, 2b** are actuated.” This amendment is consistent with page 6, lines 25-26 which reads in relevant part, “...the pressure built up in lines **7a, 7b** is reduced and clutches **2a, 2b** are opened.” This amendment also maintains the consistency of page 6, lines 21- 23 which continue to line 26, “If control device **50** fails in a situation of this type, master cylinders **6a, 6b** remain in their transitory position, whereupon clutches **2a, 2b** remain in frictional engagement according to the position of the lever mechanism **4c, 4d**. In order to then produce a decoupling of internal combustion engine **40** and transmission **30**, actuation device **11** is activated and thus the pressure relief device actuates so that the pressure built up in lines **7a, 7b** is reduced and clutches **2a, 2b** are opened.” (Emphasis added.) This language clearly shows that an increase in pressure causes clutches 2a and 2b to be engaged or actuated and that logically and consistently, a pressure reduction in lines 7a and 7b is needed to open or disengage the clutches. Applicants respectfully request entrance of the amended specification and withdrawal of the rejection under § 112, first paragraph.

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The Examiner rejected Claims 1-21 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically:

1. The Examiner rejected Claim 1 stating that it is unclear what is meant by the term “if it is operated from outside.” Applicants have amended Claim 1 by substituting the expression “when actuated” for the term “if it is operated from outside”. Support for this amendment is found in page 5, line 34 to page 6, line 2 describing “operated outside” as operation by a driver using an actuation device such as a selection lever used to select driving modes.
2. Claim 6 was rejected for improper antecedent basis for the claim limitation “the two pressure relief devices”. Applicants have amended Claim 6 by deleting the term “the” from the claim.
3. Claim 7 was rejected for improper antecedent basis for the claim limitation “the at least one pressure relief device”. Applicants have amended Claim 7 by deleting the term “the” from the claim.
4. Claim 19 was rejected for the vagueness of the claim limitation “rapid switching.” Applicants have amended Claim 19 by substituting the limitation “the time of one second or less.” Support for this amendment is found in paragraph 0012 of the specification.

Applicants respectfully request reconsideration and withdrawal of the § 112, second paragraph rejections Claims 1-21.

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Statement of Common Ownership

The undersigned attorney hereby states:

U.S. Patent Application No. 10/791,123 (the instant application) and U.S. Patent Application Publication No. 2003/0051964 were, at the time the invention of U.S. Patent Application No. 10/791,123 was made, owned by Luk Lamellen und Kupplungsbau Beteiligungs KG (“Luk”).

The § 103 (a) Rejections of Claims 1-21

The Examiner rejected Claims 1-21 under 35 U.S.C. § 103 (a). The claims were rejected as follows:

Claims 1-7 were rejected as obvious over U.S. Patent No. 5,273,143 to Voss (“Voss”) in view of U.S. Patent Application Publication No. 2003/0051964 to Hirt, et al. (“Hirt”).

Claim 12 was rejected as obvious over Voss in view of Hirt and further in view of U.S. Patent No. 4,671,394 to Braun (“Braun”).

Claims 8-11 and 13-21 were rejected as obvious over Voss in view of Hirt and further in view of U.S. Patent No. 3,352,392 to Black, et al. (“Black”).

As noted by the Examiner, the Hirt publication has an inventor in common with the instant application, namely Reinhard Berger. Both the Hirt application and the instant application were commonly owned by Luk at the time of filing of the instant application. Under 35 U.S.C. § 103 – c, subject matter developed by another person or entity, which qualifies as prior art only under § 102 (e) does not preclude patentability if that subject matter was owned by the same person at the time the invention was made.

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As stated in the Statement of Common Ownership above, the Hirt publication and the instant application were commonly owned by Luk at the time the inventions in Claims 1-21 of the instant application were made. Under § 103 – c, the Hirt publication cannot be cited as disqualifying prior art against any of Claims 1-21. Because the Hirt application is cited against all of Claims 1-21, the current rejections of Claims 1-21 under § 103 (a) should be withdrawn and those claims passed to allowance. Applicants respectfully request withdrawal of the rejection of Claims 1-21 and passage to allowance of those claims.

Conclusion

Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully yours,


C. Richard Lohrman
Registration No. 46,878
ATTORNEY FOR APPLICANT
Simpson & Simpson PLLC
5555 Main Street
Williamsville, NY 14221
Phone: (716) 626-1564
Fax: (716) 626-0366

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Appendix

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Amendments to the Drawings

The attached drawing sheets include Sheet 3 containing new Fig. 5. This sheet is in addition to amended drawings sheets nos. 1 and 2 which include original Figs. 1-4. In Figure 5, previously omitted drawing of the pressure relief device 1a integrated in master cylinder 6a has been added. Drawing sheets 1 and 2 have been amended by adding 1/3 and 2/3, respectively, to show the addition of a new drawing sheet.

Attachment: New Sheets

Amended Sheets